

Title	Telephone Appearance (amend Cal. Rules of Court, rules 298 and 212)
Summary	Rule 298, which provides that parties may appear by telephone at conferences and hearings, would be amended (1) to remove case management conferences from the list of exceptions to the general rule, and (2) to add to the list of exceptions hearings on orders to show cause for violations of court orders or rules of court. Rule 212 on case management conferences would be amended to eliminate the provision that parties must appear personally, or, if permitted by rule 298, by telephone.
Source	Civil and Small Claims Advisory Committee
Staff	Patrick O'Donnell, Committee Counsel, 415-865-7665 patrick.o'donnell@jud.ca.gov
Discussion	<p>Rule 298 on telephone appearances has been important in improving access to the courts and reducing the costs of litigation in California. To further advance the use of telephone appearances at conferences, the Civil and Small Claims Advisory Committee proposes amending rule 298.</p> <p>First, after the general provision in subdivision (b) of rule 298 allowing parties to appear by telephone, the following sentence would be added: "The court may not deny or condition an appearance by telephone except as permitted under this rule." This would clarify that courts should not impose limits or restrictions on the ability of litigants to appear by telephone except as expressly provided under the rule.</p> <p>Second, subdivision (c) of rule 298 would be amended to eliminate case management conferences from the list of exceptions to the general rule that parties may appear by telephone at conferences and hearings.¹ To be consistent with this change, rule 212 on case management conferences would also be amended to delete the phrase in subdivision (b) that counsel for each party and each self-represented party "must appear personally or, if permitted under rule 298(c)(2), by telephone."</p> <p>Thus, under amended rule 298, it would no longer require a local rule to permit telephone appearances at case management conferences;</p>

¹ Under subdivision (c)(3), the court would still have the discretion to require a personal appearance at case management conferences on a case-by-case basis.

instead, that would be the general statewide policy and practice.

The amendments would generally promote the use of telephone appearances at most proceedings. More specifically, these amendments would enable parties to appear by telephone at case management conferences unless the court, on a case-by-case basis, determined that a personal appearance would be of material assistance.

Finally, one type of hearing would be added to the list of exceptions in rule 298(c): hearings on orders to show cause for violation of a court order or a rule of court. The reason for adding this exception is that this type of hearing is one at which the personal presence of the parties or their counsel is generally necessary or desirable.

Attachment

PROPOSAL

Rules 212 and 298 of the California Rules of Court would be amended, effective January 1, 2005, to read:

1 **Rule 212. Case management conference; meet-and-confer requirement; and case**
2 **management order**

3
4 (a) ***

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6 (b) (1)–(2) ***

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8 (3) (*Appearances at the conference*) At the conference, counsel for each party and
9 each self-represented party ~~must appear personally or, if permitted under rule 208(c)(2),~~
10 ~~by telephone;~~ must be familiar with the case; and must be prepared to discuss and commit
11 to the party's position on the issues listed in (e) and (f).

12
13 (4)–(5) ***

14
15 (c)–(k) ***

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17 **Rule 298. Telephone appearance**

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19 (a) ***

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21 (b) [General provision] Except as provided in (c), a party may appear by telephone in
22 any conference or hearing at which witnesses are not expected to be called to testify. The
23 court may not deny or condition an appearance by telephone except as permitted under
24 this rule.

25
26 (c) [Exceptions] A personal appearance is required for the following:

27
28 (1) Settlement conferences, unless the court orders otherwise;

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30 ~~(2) Case management conferences, unless the court permits telephone appearances at~~
31 ~~those conference;~~

32
33 (2) Hearings on orders to show cause for violation of a court order or a rule of court; and
34

35 (3) Any hearing or conference for which the court, in its discretion, determines that a
36 personal appearance would materially assist in a determination of the processing or in
37 resolution of the case. The court must make this determination on a case-by-case basis.

38
39 (d)–(j) ***